

★ NOV 18 2011 ★

BROOKLYN OFFICE

Daniel F. Paige, Esq. (DP 5544)
Pacific International Services, Inc.
Attorney for Plaintiffs
Fruit Importers Americas, Inc.
60 Park Place, 14th Floor
Newark, New Jersey 07102
(973) 712-4206
dpaige@bonita.com

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
FRUIT IMPORTERS AMERICAS, INC.,

Plaintiff,

-against-

LONG ISLAND BANANA CORP., THOMAS J.
HOEY, individually and in his corporate capacity,
THOMAS J. HOEY, JR., individually and in his
corporate capacity, and DOES 1-10, individually
and in their corporate capacity,

Defendants.
-----X

Case No. _____

ECF Case

COMPLAINT

WEXLER, J.

LINDSAY, M.J.

Plaintiff, FRUIT IMPORTERS AMERICAS, INC. ("Fruit Importers"), by its
attorney, Daniel F. Paige, Esq., complaining of the defendants, LONG ISLAND BANANA
CORP., THOMAS J. HOEY, THOMAS J. HOEY, JR., and DOES 1-10, alleges on information
and belief as follows:

PARTIES AND JURISDICTION

1. At all relevant times, plaintiff Fruit Importers was and now is a
corporation duly organized and existing under the laws of the State of Delaware, with an office
and principal place of business at 60 Park Place, 14th Floor, Newark, NJ 07102.

2. At all relevant times, Fruit Importers was licensed under the Perishable Agricultural Commodities Act of 1930 ("PACA"), 7 U.S.C. § 499, as a dealer, commission merchant, and/or broker, and was and now is an importer and seller of bananas into the State of New York and elsewhere in the United States.

3. At all relevant times, defendant LONG ISLAND BANANA CORP. ("LIB") was and now is a corporation organized and existing under the laws of the State of New York, with an office and principal place of business at 28 William Street, Lynbrook, New York 11563.

4. At all relevant times, LIB was licensed under PACA as a dealer, commission merchant and/or broker, and was and/or now is a wholesale buyer of bananas and other perishable agricultural commodities from plaintiff and other importers, and sold bananas and/or other such commodities in the State of New York.

5. At all relevant times, Individual Defendants are or were officers, directors and/or shareholders of Defendant LIB during the relevant time period. The Individual Defendants are or were persons in control of, and responsible for, the disposition of Defendant LIB's assets, including its PACA trust assets. The Individual Defendants are charged with a fiduciary duty to maintain the PACA trust for plaintiff's benefit.

6. This Court has original and federal question jurisdiction pursuant to 28 U.S.C. § 1331 because this action arises under PACA, 7 U.S.C. § 499a, *et seq.* ("PACA").

7. This Court also has supplemental jurisdiction, pursuant to 28 U.S.C. § 1367, over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.

8. Venue is proper in this district pursuant to 28 U.S.C. §1391 in that the transactions which are the subject of this action occurred within this district and in that the Defendants are domiciled in this district.

FIRST CAUSE OF ACTION:

PACA VIOLATION

9. Between about October 7, 2011 and October 11, 2011, in the course of interstate and/or foreign commerce, plaintiff by written contracts sold to LIB boxes of bananas, being perishable agricultural commodities ("the commodities") at the total agreed price of \$64,800.00. (Ex. A).

10. The contract for each such sale contains a specific agreement by LIB as purchaser that payment of all invoice and other charges for the commodities shall be made in full within ten (10) days from the date of delivery to the purchaser. (Ex. B).

11. By the express terms of each sales contract, LIB further agreed "to pay prejudgment interest, attorneys' fees and other costs incurred by Fruit Importers in legal action to obtain payment of invoices and other charges." (Ex. B).

12. Between about October 7, 2011 and October 11, 2011, plaintiff delivered to LIB the kind, quality, grade and size of the commodities called for in the contracts of sale in the manner agreed upon, and have satisfied all conditions precedent of such contracts.

13. LIB accepted the commodities pursuant to the valid terms and conditions of the contracts of sale, but has failed and refused to pay plaintiffs in full for such commodities, thereby breaching the contracts and leaving a balance of \$64,800.00 due and owing to Fruit Importers by LIB under such contracts.

14. There is now due and owing Fruit Importers from LIB the sum of \$64,800.00, plus interest, costs and attorneys' fees.

15. Fruit Importers has requested that LIB make payment of the outstanding amounts due and claimed in this complaint, but LIB has failed and refused to make payment as required under the contracts.

16. All conditions precedent required of plaintiff have been performed.

17. LIB has failed and refused truly and correctly to account and make full payment promptly to plaintiffs for purchase of the commodities as set forth herein.

18. The matters and actions set forth herein constitute a violation by LIB of Section 2 of PACA, 7 U.S.C. § 499b(4).

19. The commodities received by LIB from plaintiff as set forth herein, and any receivables or proceeds from the sale of such commodities, should have been, were, and/or are being held in trust for the benefit of plaintiff pursuant to 7 U.S.C. §499e(c) (2)-(5).

20. Plaintiff as trust beneficiaries are entitled to the preservation of such trust and to enforce payment from the trust funds for the full amount of the sums owed by LIB herein, including interest, costs and attorneys' fees.

21. Defendant LIB's unfair and unlawful conduct has caused Fruit Importers to sustain losses and damages in the sum of \$64,800.00, as nearly as can now be estimated, no part of which has been paid, and has forced plaintiff to incur costs.

SECOND CAUSE OR ACTION:

FAILURE TO PAY TRUST FUNDS

22. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 21 herein with the same force and effect as if set forth at length.

23. On each of the outstanding invoices sent by plaintiff to defendant LIB, plaintiff, as a PACA licensee, placed the exact language statutorily prescribed by PACA to be placed on all invoices by a licensee to notify the buyer that a seller/supplier of perishable agricultural commodities is preserving its rights as a beneficiary to the statutory trust pursuant to 7 U.S.C. §499e(c)(4).

24. Upon information and belief, defendants have received and/or are in possession of monies and other property subject to the trust arising under 7 U.S.C. §499e(c)(2) (the "statutory trust"), which defendants should have used to pay plaintiff's outstanding invoices, but has failed to do.

25. Defendant LIB thereby violated PACA, 7 U.S.C. § 499(b), and breached its fiduciary duties as trustee, and as a direct result, plaintiff has suffered damages.

THIRD CAUSE OF ACTION:

BREACH OF FIDUCIARY DUTY

26. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 25 herein with the same force and effect as if set forth at length.

27. Upon information and belief, from on or about October 7, 2011 and October 11, 2011, the individual defendants managed, controlled and/or directed the credit purchase of the commodities on behalf of defendant LIB.

28. Upon information and belief, the individual defendants received, in the regular course of business, funds and other property subject to the statutory trust which were not used for the payment of plaintiff's outstanding invoices to LIB.

29. Upon information and belief, defendants, in breach of their fiduciary duties under PACA, directed the disbursement of trust funds for purposes other than making full

and prompt payment to plaintiff as required by PACA, 7 U.S.C. § 499b(4).

30. As a direct result of the foregoing, defendants have violated their fiduciary duties as trustees by failing and refusing to make the payments required to satisfy the trust interests of plaintiff, and, as a direct result, plaintiff has suffered damages.

FOURTH CAUSE OF ACTION:

BREACH OF CONTRACT/ACTION ON ACCOUNT

31. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 30 herein with the same force and effect as if set forth at length.

32. From about October 7, 2011 and October 11, 2011, defendant LIB contracted with plaintiff to purchase the commodities on credit.

33. Pursuant to the payment terms between the parties, LIB is in default to the plaintiff on amounts unpaid and outstanding.

34. Defendant LIB breached the contract by failing and refusing to pay plaintiff the sums due and owing under the contracts of sale, and as a direct result, plaintiff has suffered damages.

35. Under the terms of the invoices constituting the contracts of sale, LIB is liable for pre-judgment interest and attorneys' fees in any action on the contracts of sale. (Ex. B).

WHEREFORE, plaintiff Fruit Importers Americas, Inc. prays that this Honorable Court:

A. Enter judgment in favor of plaintiff Fruit Importers Americas, Inc. and against defendants, jointly and severally, in the principal amount of \$64,800.00, as well as interest, attorneys' fees, and the costs of this action;

B. Direct defendants to establish and/or preserve a trust fund consisting of funds sufficient to pay plaintiff's principal trust claim of \$64,800.00 plus interest, attorneys' fees, and the cost of this action;

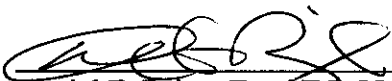
C. Enjoin, until the entry of the relief herein requested and compliance therewith, defendants and their agents, employees, representatives, successors and assigns from in any way, directly or indirectly, transferring, assigning or otherwise disposing of the above-described trust fund, or any interest therein, in whole or in part, absolutely or as security;

D. Direct defendants to assign, transfer, deliver and turn over to the plaintiff as much of the above-described trust fund as is necessary to fully compensate plaintiff for the damages they have suffered and continue to suffer;

E. Grant such other and further relief as may be just and proper.

Dated: Newark, New Jersey
November 17, 2011

Respectfully submitted,


Daniel F. Paige, Esq. (DP 5544)
Pacific International Services, Inc.
Attorney for Plaintiff
Fruit Importers Americas, Inc.
60 Park Place, 14th Floor
Newark, New Jersey 07102
(973) 712-4206
dpaige@bonita.com

Ex. A

150 - Fruit Importers Americas, Inc.

AGED ACCOUNTS RECEIVABLE
EAST COAST TRANSACTIONS ONLY

Printed: 11/07/2011 09:24 Page: 001

Base Date for Aging: 11/07/2011

NR: AR09E

Invoice Number	Transaction Description	Trans' Date	Account Total	< 31 Days	31 - 45 Days	46 - 60 Days	61 - 90 Days	91 - 120 Days	> 120 Days
LONG ISLAND BANANA CO.		CLO04A							
NFRT201913	NFRT179625	10/11/2011	12,960.00	12,960.00					
NFRT201914	NFRT179626	10/11/2011	12,960.00	12,960.00					
NFRT201915	NFRT179627	10/11/2011	12,960.00	12,960.00					
NFRT201882	RETURN CHECK#2181	10/31/2011	12,960.00	12,960.00					
NFRT201883	RETURN CHECK#2181	10/31/2011	12,960.00	12,960.00					
LONG ISLAND BANANA CO.		Totals	64,800.00	64,800.00					

Report Totals

END OF REPORT

Refunded Chx - 5 loads

Ex. B



Fruit Importers Americas, Inc.
60 Park Place, 14th Floor, Newark NJ 07102, USA
Tel: (973) 712-4200, Fax (973) 712-4094

SALES INVOICE

COPY

LONG ISLAND BANANA CO.
28 WILLIAM STREET
LYNBROOK, NY 11563

Invoice #: NFRT201882

Invoice Date: 10/7/2011

Customer #: CL004A

Terms: 10 Days

Comments: TRLU173521-3

Your Ref:

Container#: TRLU173521-3

B.O.L Ref	Product Description	Country of Origin	Sales Quantity	Unit Price	Net Price	Service Charge	Line Total
179612	BONITA CLUSTER BAGS	ECUADOR	960	\$8.50	\$8,160.00	\$4,800.00	\$12,960.00
							Total Amount Due: \$12,960.00

Detach Here

Total Amount Due: \$12,960.00

Payment due in full within 10 days of invoice date

Please explain any deductions/adjustments on reverse side

Please make all checks payable to Fruit Importers Americas, Inc.
Remit to address above.

To ensure proper credit please attach this portion to your payment.

Total Paid

Invoice#: NFRT201882

Invoice Date: 10/7/2011

Customer #: CL004A

The perishable agricultural commodities listed on this invoice are sold subject to the statutory trust authorized by section 5(c) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e(c)). The seller of these commodities retains a trust claim over these commodities, all inventories of food or other products derived from these commodities, and any receivables or proceeds from the sales of these commodities until full payment is received. PLEASE SEE BACK OF INVOICE FOR ADDITIONAL CONDITIONS OF SALE



Fruit Importers Americas, Inc.
60 Park Place, 14th Floor, Newark NJ 07102, USA
Tel: (973) 712-4200, Fax (973) 712-4094

Uniform Conditions Governing Sales

COPY

FRUIT IMPORTERS AMERICAS, INC. (hereinafter called "Fruit Importers") has established these Uniform Conditions Governing Sales to govern all sales of bananas and other products. The products described on the face hereof ("Products") are sold by Fruit Importers to the purchaser shown on the face hereof ("Purchaser").

1. All Products are sold by Fruit Importers and delivered to the Purchaser F.O.B. port of discharge. Title and risk of loss or damage to Products passes to Purchaser upon delivery to the Purchaser's carrier at the terminal.
2. The Loading Ticket specifying the actual number of boxes of Products delivered to the Purchaser shall be final and conclusive upon the Purchaser and Fruit Importers.
3. Purchaser shall pay the invoice price, all charges attributable to delay in Purchaser's carrier arriving at the terminal for pickup of Purchaser's Products, and all freight (including refrigeration, charges for holding Products where applicable, demurrage, loading, carting and other similar charges), unless a special arrangement shall be made respecting the payment of such freight and demurrage charges in any given case. The assumption or payment of any charge by Fruit Importers for the benefit or on behalf of the Purchaser shall not relieve Purchaser of any of the foregoing obligations or affect the passage of title and risk of loss or damage to Products.
4. Payment by Purchaser to Fruit Importers of invoice and other charges shall, unless otherwise specified on the face hereof, be Net 10 days from the date of delivery of the Products to the Purchaser at the terminal. Fruit Importers reserves the right to assess a late charge at a rate of interest equal to the rate allowable by law.
5. After delivery of the Products to Purchaser at the terminal, the Purchaser shall bear all loss on account of damage to or deterioration of the Products arising from any cause whatsoever.
6. Fruit Importers agrees to investigate properly every claim made as hereinafter provided and will make prompt and fair adjustment thereof if found meritorious. The Purchaser, however, shall in every instance pay to Fruit Importers the full amount of invoice without any right of deduction or set off whatsoever, and shall abide by the decision of Fruit Importers with respect to any claim and accept in full satisfaction thereof any allowance made by Fruit Importers. No allowance made for whatever cause shall have the effect of impairing or effecting any of the provisions hereof nor shall it constitute any precedent for any claim. In no event shall Fruit Importers be responsible for any loss of profits or consequential damages.
7. Notice of every claim against Fruit Importers must be given to Fruit Importers by telephone (973-712-4200) or in writing by facsimile transmission (973-712-4094) immediately after the arrival at its destination of the carrier's vehicle containing the Products that are the subject of such claim. In order to allow Fruit Importers an opportunity to inspect the Products, such notice shall specify the defects complained of, the date of such arrival, and the date the Products will leave the Purchaser's facility. Unless the claim is previously settled in writing by an authorized representative of Fruit Importers, a formal written claim with supporting loss statement must be sent by Purchaser, within 30 days after the date of the original notice of claim, directly to Fruit Importers by facsimile transmission at the above number or by mail to 60 Park Place, Newark NJ 07102. Fruit Importers shall have the right to request reasonable additional supporting documents, including, with limitation, pertinent sales records and verified disposal certificate for any Products delivered here under requiring disposal. Purchaser shall make all reasonable efforts to minimize any losses regarding the Products claimed to be defective.
8. Every order given to Fruit Importers whether by telephone, telegraph, facsimile, in writing or otherwise shall be regarded as being made under and subject to the terms and conditions contained in these Uniform Conditions Governing Sales in every respect unless waived in a writing signed by the President, Vice President or Sales Manager of Fruit Importers, it being expressly stated and understood that no other employee or representative of Fruit Importers excepting the President, Vice President or Sales Manager has any authority to make any sale, or contract for sale, of Products except upon and subject to these Uniform Conditions Governing Sales. Failure of Fruit Importers to insist upon the performance of any provision of these Uniform Conditions Governing Sales or to exercise any right or remedy available to Fruit Importers pursuant hereto shall not constitute a waiver of any other provisions hereof or of any subsequent right or remedy.
9. Purchaser agrees to pay prejudgment interest, attorney's fees and other costs incurred by Fruit Importers in legal action to obtain payment of invoice and other charges. Purchaser agrees that jurisdiction and venue over any such action shall be the jurisdiction and venue of Fruit Importers' home office.
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11. All of the above is understood to apply to railroad cars, trucks and/or trailer loads of Products whether such vehicles are owned or hired by the Purchaser directly or by Fruit Importers on behalf of the Purchaser of Products.

FRUIT IMPORTERS AMERICAS, INC.

Detach Here

B.O.L	Description	Origin	Total Billed	Adjusted	Net Paid	Reason
179612	BONITA CLUSTER BAGS	ECUADOR	\$12,960.00			



Fruit Importers Americas, Inc.
60 Park Place, 14th Floor, Newark NJ 07102, USA
Tel: (973) 712-4200, Fax (973) 712-4094

SALES INVOICE

COPY

LONG ISLAND BANANA CO.
28 WILLIAM STREET
LYNBROOK, NY 11563

Invoice #: NFRT201883

Invoice Date: 10/11/2011

Customer #: CL004A

Terms: 10 Days

Comments: TRLU173533-7

Your Ref:

Container#: TRLU173533-7

B.O.L Ref	Product Description	Country of Origin	Sales Quantity	Unit Price	Net Price	Service Charge	Line Total
179613	BONITA CLUSTER BAGS	ECUADOR	960	\$8.50	\$8,160.00	\$4,800.00	\$12,960.00
							Total Amount Due: \$12,960.00

Detach Here

Total Amount Due: \$12,960.00

Payment due in full within 10 days of invoice date

Please explain any deductions/adjustments on reverse side

Please make all checks payable to Fruit Importers Americas, Inc.
Remit to address above.

To ensure proper credit please attach this portion to your payment.

Total Paid

Invoice#: NFRT201883

Invoice Date: 10/11/2011

Customer #: CL004A

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Fruit Importers Americas, Inc.

60 Park Place, 14th Floor, Newark NJ 07102, USA
Tel: (973) 712-4200, Fax (973) 712-4094Uniform Conditions Governing Sales**COPY**

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8. Every order given to Fruit Importers whether by telephone, telegraph, facsimile, in writing or otherwise shall be regarded as being made under and subject to the terms and conditions contained in these Uniform Conditions Governing Sales in every respect unless waived in a writing signed by the President, Vice President or Sales Manager of Fruit Importers, it being expressly stated and understood that no other employee or representative of Fruit Importers excepting the President, Vice President or Sales Manager has any authority to make any sale, or contract for sale, of Products except upon and subject to these Uniform Conditions Governing Sales. Failure of Fruit Importers to insist upon the performance of any provision of these Uniform Conditions Governing Sales or to exercise any right or remedy available to Fruit Importers pursuant hereto shall not constitute a waiver of any other provisions hereof or of any subsequent right or remedy.
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FRUIT IMPORTERS AMERICAS, INC.

✂ Detach Here

B.O.L	Description	Origin	Total Billed	Adjusted	Net Paid	Reason
179613	BONITA CLUSTER BAGS	ECUADOR	\$12,960.00			

**Fruit Importers Americas, Inc.**60 Park Place, 14th Floor, Newark NJ 07102
Tel: (973) 816-9330, Fax (973) 712-4094**SALES INVOICE
COPY**LONG ISLAND BANANA CO.
28 WILLIAM STREET
LYNBROOK, NY 11563

Invoice #: NFRT201913

Invoice Date: 10/11/2011

Customer #: CL004A

Terms: 10 Days

Comments: TRLU170862-4

Your Ref:

Container#: TRLU170862-4

B.O.L Ref	Product Description	Country of Origin	Sales Quantity	Unit Price	Net Price	Service Charge	Line Total
179625	CLUSTER BAGS	ECUADOR	960	\$8.50	\$8,160.00	\$4,800.00	\$12,960.00
Total Amount Due: \$12,960.00							

✂ Detach Here

Total Amount Due: \$12,960.00**Payment due in full within 10 days of invoice date****Please explain any deductions/adjustments on reverse side**Please make all checks payable to Pacific Fruit, Inc.
Remit to address above.**To ensure proper credit please attach this portion to your payment.****Total Paid**

Invoice#: NFRT201913

Invoice Date: 10/11/2011

Customer #: CL004A

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**Fruit Importers Americas, Inc.**

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8. Every order given to Fruit Importers whether by telephone, telegraph, facsimile, in writing or otherwise shall be regarded as being made under and subject to the terms and conditions contained in these Uniform Conditions Governing Sales in every respect unless waived in a writing signed by the President, Vice President or Sales Manager of Fruit Importers, it being expressly stated and understood that no other employee or representative of Fruit Importers excepting the President, Vice President or Sales Manager has any authority to make any sale, or contract for sale, of Products except upon and subject to these Uniform Conditions Governing Sales. Failure of Fruit Importers to insist upon the performance of any provision of these Uniform Conditions Governing Sales or to exercise any right or remedy available to Fruit Importers pursuant hereto shall not constitute a waiver of any other provisions hereof or of any subsequent right or remedy.
9. Purchaser agrees to pay prejudgment interest, attorney's fees and other costs incurred by Fruit Importers in legal action to obtain payment of invoice and other charges. Purchaser agrees that jurisdiction and venue over any such action shall be the jurisdiction and venue of Fruit Importers home office.
10. The perishable agricultural commodities listed on this invoice are sold subject to the statutory trust authorized by section 5 (c.) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e(c.)). The seller of these commodities retains a trust claim over these commodities, all inventories of food or other products derived from these commodities, and any receivables or proceeds from the sale of these commodities until full payment is received.
11. All of the above is understood to apply to railroad cars, trucks and/or trailer loads of Products whether such vehicles are owned or hired by the Purchaser directly or by Fruit Importers on behalf of the Purchaser of Products.

✂ ----- Detach Here -----

B.O.L	Description	Origin	Total Billed	Adjusted	Net Paid	Reason
179625	CLUSTER BAGS	ECUADOR	\$12,960.00			

**Fruit Importers Americas, Inc.**60 Park Place, 14th Floor, Newark NJ 07102
Tel: (973) 816-9330, Fax (973) 712-4094**SALES INVOICE
COPY**LONG ISLAND BANANA CO.
28 WILLIAM STREET
LYNBROOK, NY 11563

Invoice #: NFRT201914

Invoice Date: 10/11/2011

Customer #: CL004A

Terms: 10 Days

Comments: TRLU170882-0

Your Ref:

Container#: TRLU170882-0

B.O.L Ref	Product Description	Country of Origin	Sales Quantity	Unit Price	Net Price	Service Charge	Line Total
179626	CLUSTER BAGS	ECUADOR	960	\$8.50	\$8,160.00	\$4,800.00	\$12,960.00
Total Amount Due: \$12,960.00							



Detach Here

Total Amount Due: \$12,960.00**Payment due in full within 10 days of invoice date****Please explain any deductions/adjustments on reverse side**Please make all checks payable to Pacific Fruit, Inc.
Remit to address above.**To ensure proper credit please attach this portion to your payment.****Total Paid**

Invoice#: NFRT201914

Invoice Date: 10/11/2011

Customer #: CL004A

The perishable agricultural commodities listed on this invoice are sold subject to the statutory trust authorized by section 5(c) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e(c)). The seller of these commodities retains a trust claim over these commodities, all inventories of food or other products derived from these commodities, and any receivables or proceeds from the sales of these commodities until full payment is received. PLEASE SEE BACK OF INVOICE FOR ADDITIONAL CONDITIONS OF SALE

**Fruit Importers Americas, Inc.**

60 Park Place, 14th Floor, Newark NJ 07102
Tel: (973) 816-9330, Fax (973) 712-4094

Uniform Conditions Governing Sales**COPY**

FRUIT IMPORTERS AMERICAS, INC. (hereinafter called "Fruit Importers") has established these Uniform Conditions Governing Sales to govern all sales of bananas and other products. The products described on the face hereof ("Products") are sold by Fruit Importers to the purchaser shown on the face hereof ("Purchaser").

1. All Products are sold by Fruit Importers and delivered to the Purchaser F.O.B. port of discharge. Title and risk of loss or damage to Products passes to Purchaser upon delivery to the Purchaser's carrier at the terminal.
2. The Loading Ticket specifying the actual number of boxes of Products delivered to the Purchaser shall be final and conclusive upon the Purchaser and Fruit Importers.
3. Purchaser shall pay the invoice price, all charges attributable to delay in Purchaser's carrier arriving at the terminal for pickup of Purchaser's Products, and all freight (including refrigeration, charges for holding Products where applicable, demurrage, loading, carting and other similar charges), unless a special arrangement shall be made respecting the payment of such freight and demurrage charges in any given case. The assumption or payment of any charge by Fruit Importers for the benefit or on behalf of the Purchaser shall not relieve Purchaser of any of the foregoing obligations or affect the passage of title and risk of loss or damage to Products.
4. Payment by Purchaser to Fruit Importers of invoice and other charges shall, unless otherwise specified on the face hereof, be Net 10 days from the date of delivery of the Products to the Purchaser at the terminal. Fruit Importers reserves the right to assess a late charge at a rate of interest equal to the rate allowable by law.
5. After delivery of the Products to Purchaser at the terminal, the Purchaser shall bear all loss on account of damage to or deterioration of the Products arising from any cause whatsoever.
6. Fruit Importers agrees to investigate properly every claim made as hereinafter provided and will make prompt and fair adjustment thereof if found meritorious. The Purchaser, however, shall in every instance pay to Fruit Importers the full amount of invoice without any right of deduction or set off whatsoever, and shall abide by the decision of Fruit Importers with respect to any claim and accept in full satisfaction thereof any allowance made by Fruit Importers. No allowance made for whatever cause shall have the effect of impairing or effecting any of the provisions hereof nor shall it constitute any precedent for any claim. In no event shall Fruit Importers be responsible for any loss of profits or consequential damages.
7. Notice of every claim against Fruit Importers must be given to Fruit Importers by telephone (973-816-9330) or in writing by facsimile transmission (973-712-4094) immediately after the arrival at its destination of the carrier's vehicle containing the Products that are the subject of such claim. In order to allow Fruit Importers an opportunity to inspect the Products, such notice shall specify the defects complained of, the date of such arrival, and the date the Products will leave the Purchaser's facility. Unless the claim is previously settled in writing by an authorized representative of Fruit Importers, a formal written claim with supporting loss statement must be sent by Purchaser, within 30 days after the date of the original notice of claim, directly to Fruit Importers by facsimile transmission at the above number or by mail to 60 Park Place., Newark, New Jersey 07102. Fruit Importers shall have the right to request reasonable additional supporting documents, including, with limitation, pertinent sales records and verified disposal certificate for any Products delivered hereunder requiring disposal. Purchaser shall make all reasonable efforts to minimize any losses regarding the Products claimed to be defective.
8. Every order given to Fruit Importers whether by telephone, telegraph, facsimile, in writing or otherwise shall be regarded as being made under and subject to the terms and conditions contained in these Uniform Conditions Governing Sales in every respect unless waived in a writing signed by the President, Vice President or Sales Manager of Fruit Importers, it being expressly stated and understood that no other employee or representative of Fruit Importers excepting the President, Vice President or Sales Manager has any authority to make any sale, or contract for sale, of Products except upon and subject to these Uniform Conditions Governing Sales. Failure of Fruit Importers to insist upon the performance of any provision of these Uniform Conditions Governing Sales or to exercise any right or remedy available to Fruit Importers pursuant hereto shall not constitute a waiver of any other provisions hereof or of any subsequent right or remedy.
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B.O.L	Description	Origin	Total Billed	Adjusted	Net Paid	Reason
179626	CLUSTER BAGS	ECUADOR	\$12,960.00			

**Fruit Importers Americas, Inc.**60 Park Place, 14th Floor, Newark NJ 07102
Tel: (973) 816-9330, Fax (973) 712-4094**SALES INVOICE
COPY**LONG ISLAND BANANA CO.
28 WILLIAM STREET
LYNBROOK, NY 11563

Invoice #: NFRT201915

Invoice Date: 10/11/2011

Customer #: CL004A

Terms: 10 Days

Comments: TRLU170896-4

Your Ref:

Container#: TRLU170896-4

B.O.L Ref	Product Description	Country of Origin	Sales Quantity	Unit Price	Net Price	Service Charge	Line Total
179627	CLUSTER BAGS	ECUADOR	960	\$8.50	\$8,160.00	\$4,800.00	\$12,960.00
Total Amount Due: \$12,960.00							



Detach Here

Total Amount Due: \$12,960.00**Payment due in full within 10 days of invoice date****Please explain any deductions/adjustments on reverse side**Please make all checks payable to Pacific Fruit, Inc.
Remit to address above.**To ensure proper credit please attach this portion to your payment.****Total Paid**

Invoice#: NFRT201915

Invoice Date: 10/11/2011

Customer #: CL004A

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**Fruit Importers Americas, Inc.**

60 Park Place, 14th Floor, Newark NJ 07102
Tel: (973) 816-9330, Fax (973) 712-4094

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✂ Detach Here

B.O.L	Description	Origin	Total Billed	Adjusted	Net Paid	Reason
179627	CLUSTER BAGS	ECUADOR	\$12,960.00			